



# VARIANCES

**Purpose:** The purpose of variances is to allow variation from the strict application of a zoning regulation where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property as of January 1, 1958, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such property, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the zoning requirements would involve practical difficulties or cause undue hardship unnecessary to carry out the spirit and purpose of the Zoning Ordinance. *In no case shall a variance be granted to permit a use not permitted in the district.*

**Code Reference:** Fremont Municipal Code Title 8, Chapter 2, Article 29.

I understand that my plan review may be delayed if required materials are missing from the submittal package.

\_\_\_\_\_  
Project Applicant

\_\_\_\_\_  
Date

## Submittal Requirements:

### NOTE:

- Indicates an item which is always required.
- Indicates an item which may be required, depending on the project. The staff person who provides you this sheet will check (✓) the box if the item is required for your application.

- 1. A completed application form including:

Part I: Project information and the current property owner(s) signature authorizing the project proposal.

Part II Reimbursement Agreement with signature of the billing party acknowledging responsibility for charges.

Part III: A list of all consultants proposed to be involved with the project, or a statement that none are proposed to be involved.

Part IV: A statement signed by the applicant indicating whether the project site is found on the Hazardous Waste and Substances Sites List pursuant to California Government Code Section 65962.5.

Part V: Development Statistics

■ 2. Plans including the following items:

■ a. Vicinity map showing a one-half mile radius of the site..

■ b. Accurately dimensioned site plan showing:

(1) Property lines.

(2) Location, configuration and setbacks of all existing and proposed buildings and intended uses for the buildings and site, including occupancy classification and type of construction as defined in the Building Code.

(3) Parking, vehicle circulation areas and driveways.

(4) Pedestrian ways and recreation areas, existing and proposed.

(5) Development Reserve Boundary, Toe-of-the-Hill and Ridgeline, where applicable.

(6) Fencing.

(7) Easements on the property.

(8) All fire hydrants within 300 feet of the project site.

(9) All land uses surrounding the project site.

■ c. Landscape Concept Plans, new or modified, showing:

(1) Location, spacing, size, quantities, and botanical designations of all existing and proposed on-site, and required right-of-way trees.

(2) Shrub, groundcover, turf grass, and ornamental grass massing with botanical designations provided in list form and grouped by type, symbol, and water use.

(3) Concept sections and elevation drawings of all landscape architectural features such as walls, fences, lighting, paving types (and patterns), arbors, benches, fountains and other like features showing scale, form, materials, and colors.

- (4) Existing trees proposed for preservation.
- (5) Refer to the City's Landscape Development Requirements and Policies online at [www.fremont.gov](http://www.fremont.gov).
- ☐ d. Elevations showing:
  - (1) Each side of all proposed buildings and/or existing buildings, and/or the sides proposed to be modified.
  - (2) Materials and colors to be used on each elevation.
- e. Floor plans, indicating all intended uses of each area.
- f. Tree Survey Plan showing the following:
  - (1) Existing and proposed site features, including but not limited to buildings, walls, paving, grading etc.
  - (2) Tree(s) trunk six-inch DBH (trunk diameter at 4.5 – feet above ground level) and larger located on plan by a licensed surveyor, and with accurate canopy outline.
  - (3) Trees labeled by number and tagged on-site per ISA standards.
  - (4) Summary table identifying botanical designation, DBH, and elevation of tree at ground level.
- 3. The number of plans to be submitted with the application are:
  - a. Nine (9) sets of full-sized plans, collated and folded to a size NO LARGER THAN 8" x 13".
  - b. One (1) set of the plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".

Your project planner will request you submit the following materials 21 days before your public hearing or action date.

  - c. Two (2) sets of full size plans.
  - d. One (1) set of plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".
  - e. CD-ROM with all the required plans in PDF format.

Full-size plans submitted should be no larger than 30" x 42".

- 4. Eight copies of a statement justifying the variance request (Attachment “A”).
- 5. A statement of Best Management Practices (BMP’s) appropriate for the proposed development to prohibit pollutants from entering into storm water runoff. The BMP statement shall include measures for construction, long term operation, and maintenance of the project.

**Incomplete Applications:** An application is considered to be incomplete if any of the items checked on this information sheet have not been included. Processing of the application will be delayed until the submittal is determined to be complete.

**Hearing Notification:** The City will notify all property owners, as well as business and residential tenants within the appropriate radius of your project site. Most projects require a 300-foot radius, while some require 1,000-foot based on the sensitivity of the project and the level of community input anticipated or required.

As with all other costs, you will be billed for staff time to research, create and label the required postcards. If the public hearing is delayed for an extended period of time after notices for your project have been mailed, you will be charged the cost to re-mail postcards.

**Schedule Time Line:** Complete applications for variances are generally acted on by the Zoning Administrator within one month.

**Appeals:** Appeals of Zoning Administrator action are considered by the Planning Commission. Appeals must be submitted within 10 calendar days of notice of staff action.

**Appeals of Planning Commission Action:** Appeals of Planning Commission action are considered by the City Council. Appeals to the City Council must be submitted in writing to the City Clerk within 10 calendar days of the Planning Commission action. Your appeal letter must be accompanied by a \$50 appeal fee and must set forth (a) the specific action appealed from, (b) the specific grounds of the appeal and (c) the relief or action sought from the City Council. For additional details regarding appeals to the City Council, contact the City Clerk’s office, 3300 Capitol Avenue, Fremont, CA 94538, phone: (510) 284-4060.

### **Development Impact Fees:**

#### ***Commercial and Industrial Buildings***

Development impact fees may be assessed if your project involves new construction or additional floor area. If the project involves a change of use in a building, development impact fees may also be assessed. For example, a change from a warehouse to an industrial classification or a change from retail to an office would require Development Impact Fees be paid. A credit will be applied to the value of fees for the previous use category and a charge will be applied for the fees of the new use category. There are three categories of Development Impact fees assessed for commercial and industrial buildings: Traffic, Capital Facilities and Fire Protection Fees.

### ***Residential Developments***

New residential dwellings (single family and multi-family projects) always trigger payment of Development Impact Fees. In addition to the fee categories assessed for commercial and industrial buildings, new residential construction also requires the payment of Park Facilities and Park Dedication In-Lieu fees.

For further information on Development Impact Fees, please refer to the Development Impact Fee schedule available in the Development Services Center or speak with a Development Services staff member.

**Fees:** The minimum deposit for your application is \_\_\_\_\_ and is due at the time of submittal. The actual charge will be based on staff time required to process the application. Progress billings will be invoiced during the review of the project if charges exceed the minimum deposit. A refund will be invoiced at the completion of the project review if excess funds have been paid.

Requirements described on this sheet are subject to change. If you need additional information or clarification regarding your submittal please contact the staff person who furnished you this sheet for further assistance.

Information sheet furnished by: \_\_\_\_\_ Phone: (510) 494-\_\_\_\_\_

for proposal: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

## Attachment “A”

### Justification Statement for a Variance Request

Justification for any requested variance must be submitted with the application and must meet three standards specified by the Zoning Ordinance as listed below. Please be specific and use complete sentences, as your statements may be quoted during the Zoning Administrator hearing or in the staff report to the Planning Commission.

- (a) I am requesting a variance based on the following special circumstances applicable to the subject property such as size, shape, topography, location or surroundings:\_\_\_\_\_

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- (b) Compared to other properties in the vicinity and within the same zoning district, this variance, if approved, shall not constitute a grant of special privilege, because \_\_\_\_\_

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- (c) The strict application of certain zoning district regulations deprives the project site of privileges enjoyed by other properties in the vicinity and under identical zoning district classification, because\_\_\_\_\_

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